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REPORT
99-516

ENRIQUE MONTANO UGARTE

APRIL 9, 1986.—Committed to the Committee of the Whole House and ordered to be printed

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Mr. FISH, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1693]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1693), for the relief of Enrique Montano Ugarte, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Line 6, after the word "petition" strike all that follows and insert in lieu thereof the following:

> which shall be eligible to be filed in his behalf in the United States by Blanca Ugarte, citizen of the United States, pursuant to section 204 of the Act, and thereafter the beneficiary shall be eligible for processing under section 245 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. *Provided further,* That the immigration status authorized under this Act shall only be effective if Blanca Ugarte files a petition within two years after the date of enactment of this Act.

PURPOSE OF THE BILL

The purpose of this bill, as amended, is to facilitate the adjustment of status to that of permanent residence in the United States of the adopted son of a citizen of the United States. The bill has been amended to provide that the relief be sought within two years of enactment.

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STATEMENT OF FACTS

The beneficiary is a 20-year-old native and citizen of Bolivia who entered the United States as a visitor November 17, 1979 and later changed status to that of a student. He was adopted by his aunt, a United States citizen July 6, 1983 in the United States. The natural parents reside in Bolivia and suffer from health problems. Mrs. Ugarte is employed as a laboratorist earning $42,000 with assets of $500,000. A favorable home study has been submitted.

The pertinent facts in this case are contained in a letter dated October 5, 1984 from the Commissioner of the Immigration and Naturalization Service to the Chairman of the Committee on the Judiciary regarding a bill then pending for the relief of the same person. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, October 5, 1984.

A27-123-926.

Hon. PETER W. RODINO, Jr.
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 5742) for the relief of Enrique Montano Ugarte, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the 18-year-old adopted son of Ms. Blanca Ugarte may be classified as a child and be granted immediate relative status. The bill further provides that the natural parents, brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native and citizen of Bolivia, would be chargeable to the nonpreference portion of the numerical limitation for immigrants.

Sincerely,

For the Commissioner
(S) Marvin T. Ely
(For Greg Leo, Director, Congressional and Public Affairs).

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 5742

The beneficiary, Enrique Montano Ugarte, a native and citizen of Bolivia, was born February 15, 1966. He resides in San Carlos, California, with his adoptive mother, Blanca Ugarte, who is also the interested party, and her natural daughter. He graduated from high school in San Carlos, California, and is now in his sophomore year at the University of California, Davis, California, where his major is applied physics. His natural parents reside in Cochabamba, Bolivia. According to the beneficiary, his natural mother, who is employed by the local government as an

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accountant, has terminal cancer. His natural father who works in private business, also as an accountant, has a serious heart condition. He has a 14-year-old natural brother and a 13-year-old natural sister; both continue to reside with his parents in Bolivia.

The interested party, a native of Bolivia and naturalized citizen of the United States, was born April 12, 1942. She married in Bolivia in 1974, and divorced in California in 1976. She has an eight-year-old daughter by that marriage. She attended the Universidad Mayor de San Simon in Cochabamba, Bolivia, graduating as a biochemist-pharmacist in 1964. She is now employed as a laboratorist by the Stanford University Hospital, Stanford, California, at a salary of $3,550 a month. The interested party claims additional income of about $1,000 a month from rental property. She has equity totaling $490,000 in her home and investment property, with outstanding loans of $275,000. She values her personal property including automobiles at $128,000 with $15,000 owing on the vehicles. Apart from a life insurance and annuity fund valued at $50,000, she has no other significant assets or debts. The interested party adopted the beneficiary in a civil proceeding in San Mateo County, California, on July 6, 1983, the natural parents having legally relinquished his custody. At the time of adoption, the beneficiary was 17 years old.

The beneficiary entered the United States on November 17, 1979, and was admitted until November 30, 1979, as a nonimmigrant visitor for pleasure. On May 7, 1980, he was granted a change of status to nonimmigrant student and authorized to remain for the duration of that status. He is continuing to maintain his student status.

Mr. Lantos, the author of the bill, provided the following statement in support of this legislation.

STATEMENT BY THE HONORABLE TOM LANTOS MEMBER OF CONGRESS FROM CALIFORNIA IN SUPPORT OF H.R. 1693

Mr. Chairman, I am here to support H.R. 1693—a private bill which I introduced for the relief of Enrique Ugarte.

Enrique has lived in my Congressional District with his aunt in Redwood City for the past six years. He is a source of emotional support for his aunt, who is a single mother of a 9 year-old daughter, and his 84 year-old grandmother.

The element which brings a sense of urgency to this case is Enrique's tragic family situation. He arrived in this country in 1979 from Bolivia to attend high school while living with his aunt. Shortly after his arrival, his mother in Bolivia was diagnosed as having terminal cancer. I recently learned that his mother now has no use of her lungs, and her doctors estimate that she has at most only two months to live. His father is crippled and his health is also deteriorating.

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It would be a tremendous hardship for Enrique if he is not now permitted to remain in the United States. His only living family—and his legally adopted family—is in this country. When his mother was diagnosed as having cancer, Enrique's aunt began legal adoption proceedings at the request of Enrique's mother. These adoption proceedings were started when Enrique was 16 years old, but were not completed until he had turned 17. As you know, the Immigration and Naturalization Service only recognizes an adopted child of 16 years or younger for purposes of permanent residency status.

In view of the current tragic medical condition of Enrique's natural parents in Bolivia, it would be unfortunate if he were denied permission to stay in our country simply because his adoption was completed four months too late to qualify under the INS rule.

I believe that the other factors in this case warrant special action by Congress in classifying Enrique Ugarte as an adopted child of United States citizens. I wish to emphasize that Enrique will be a loyal, productive citizen of this country. He plans to enter the U.S. Air Force once he becomes a permanent resident of the U.S.

The following additional information is provided:

Superior Court of California, County of San Mateo

(NO. 9526, DECREE OF ADOPTION)

AARONSON, DICKERSON, LANZONE & CARPOL A PROFESSIONAL CORPORATION, ATTORNEYS FOR PETITIONER

In the Matter of the Adoption Petition of BLANCA UGARTE, Adopting Parent

The petition of Blanca Ugarte for the adoption of the minor who is the subject of this adoption proceeding, came on regularly for hearing before this Court, the Honorable Thomas M. Jenkins Judge, presiding on July 6, 1983, Michael Aaronson appearing as attorney for the petitioner, with petitioner and the minor appearing in person at the hearing; and it appearing that the San Mateo County Department of Social Services has heretofore filed its written report recommending the granting of the petition, and the petitioner and minor child having been examined separately and evidence both oral and documentary having been introduced, the court now finds that:

All of the allegations in the petition are true; petitioner is a resident of San Mateo County, California; and is an adult and more than ten years older than the minor; the minor who is the subject of the petition is a male child born on February 15, 1966, in Cochabamba, Bolivia.

The consents required by law under the facts of this case have been fully and freely given, and filed in the manner required by law.

It is therefore ordered, adjudged and decreed that the petition is granted and that the minor is now the adopted child of petitioner,

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Blanca Ugarte and shall be regarded and treated in all respects as her own lawful child; that she shall sustain toward the child and the child toward here the legal relation of parent and child, and each respectively shall have all of the rights and be subject to all of the duties of natural parent and child, and that the name of the child shall henceforth be Enrique Ugarte.

Dated: July 6, 1983.

THOMAS M. JENKINS,
Judge of the Superior Court.

SAN CARLOS, CA, *April 23, 1984.*

Hon. ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law, Committee on the Judiciary, Washington, DC.

DEAR MR. MAZZOLI: I came to the United States from Bolivia in November, 1979 in order to continue my education. I was thirteen years old. I came to California because I have many aunts and uncles and cousins here. I came to live with my aunt, Blanca Ugarte and enrolled at Sequoia High School in Redwood City in February, 1980, I have studied very hard and have qualified for advanced studies in engineering, which I have always enjoyed. When I was sixteen, I wanted to join the U.S. Air Force, but I was rejected because I was not a permanent resident.

My aunt legally adopted me as her son when we received the sad news confirming that my own mother's colonic cancer is terminal. Since then, my father has also been hospitalized and is on medication for a serious heart condition. The paper work to complete the adoption process took over six months of time due to the fact that some of the papers had to be completed and signed by my natural parents who reside in Bolivia. By the time the judge has approved the adoption papers, I had turned seventeen, which prevented me from changing my temporary status. An immigration policy states that residency is only granted to adopted children under the age of sixteen. Therefore I am asking for some help in getting status as a permanent resident because I want to make a productive life here. I have a lot of support from my relatives here who feel I can really make something of myself in this country.

I feel very grateful for the educational opportunities the United States has given me since my arrival four years ago and want to repay this gift by serving in the armed forces someday. I waive the Freedom of Information Act and the Privacy Act so the Committee my obtain any information it needs to consider this request.

Sincerely,

ENRIQUE MONTANO UGARTE.

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BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATION

Upon all the facts in this case, the Committee is of the opinion that H.R. 1693, as amended, should be enacted and accordingly recommends that the bill do pass.

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